

Remarks

Claims 51-64, 71-84, 91-94 and 99 remain in the application. Claim 51 has been amended to delete as disclosed in published U. S. Patent Application No. 20020020142 filed April 23,2001. Editorial changes have also been made to claim 51 to provide proper antecedent basis and to clarify the claim.

Claims 51 and 91 have also been amended to add that the thickness of the fibrous nonwoven mat is in the range of about 38 to about 48 mils, basis found in the Examples in the Specification, Example 2 mat having a thickness of 43 +/- 5 mils and all of the mats made in Examples 1, 2 and 3 falling in this thickness range.

Claims 91 and 99 have also been amended to make editorial changes to provide proper antecedent basis and to clarify the claims.

The claimed invention are fibrous nonwoven mats useful as the scored and folded vertical webs spanning between an exposed mat and a backer mat in a compressible ceiling tile as disclosed in published U. S. Patent Application No. 20020020142 filed April 23,2001, including the ability to, after being scored, folded, and compressed, to spring back to the original shape and orientation, the novel features of the fibrous nonwoven mats being the combination of components, limitations of the components and limitations on the basis wt. and thickness of the fibrous nonwoven mats that produce a novel combination of properties, a combination of properties that permit the fibrous nonwoven mats to perform in superior manner when scored and used as the collapsible webs in compressible ceiling tile. The fibrous nonwoven mats have a basis weight in the range of about 2.3 to about 2.6 lbs./100 sq. ft., a thickness in the range of about 35(claim 99) or 38(rest of the claims) mils to about 48 mils and are comprised of a blend of fibers comprising at least about 88 wt. percent and up to about 92 wt. percent of glass fibers having diameters in the range of about 13 to about 17.5 microns and lengths in the range of about 0.7 to about 1.1 inches, and about 8 to about 12 wt. percent of polymer fibers selected from a group consisting of polyester, polypropylene, nylon, PBT, polyacrylonitrile and polybenzimidazole, often polyester fibers, the blend of fibers bound together with about 25 +/- 5 wt. percent and of a particular type of binder. The claimed mats have excellent flame resistance and excellent and unexpected tensile strength, flex and recovery properties after scoring and folding, the mat passing the National Fire Protection Association's (NFPA) Method #701

Association's (NFPA) Method #701 Flammability Test as well as critical tensile strength and a Taber Stiffness of at least about 50, properties essential for the mat to be used ceiling tile of the type described in U.S. Published Patent Application No. 20020020142. As pointed out in the Summary section of the specification, these properties are unique and unexpected in nonwoven mats containing a majority of glass fibers bound together with an organic binder. Also, as pointed out in the Jaffee Declaration, Jaffee being an expert in nonwoven mat technology, being the inventor or co-inventor of 11 US patents, see Exhibit A enclosed, and being aware of the contents of the references cited by the Examiner, made more than 100 different mats containing many different combinations of different fibers and different binders before a mat composition was tried that produced a mat that met the properties required for a mat to be used in the ceiling tile described above. Once that breakthrough was achieved, then ranges of variations, including those of the Examples set forth in the specification, were found that also met the requirements of the ceiling tile, and some combinations of variables produced mats having the better properties for this use than others although many could be used.

An example of a ceiling tile of the type described in U.S. Published Patent Application No. 20020020142, this ceiling tile sample having nonwoven mat dividers 52 spanning an outer sheet 54 and a backing mat 56, the mat dividers being scored and functioning to fold to allow the ceiling tile to be compressed or collapsed to save space for packaging and shipping. The presently claimed mats are suitable for the scored and folding dividers 52 in this type of ceiling tile. Also presented is a Declaration by the inventor, one having more than ordinary skill in the nonwoven mat art. As taught in U.S. Published Patent Application No. 20020020142, "The dividers [52], on the other hand, while preferably being made of fiberglass, could be made of a carbon fiber mat, some papers, cardboards, woven materials, films, or combinations thereof, with the important feature being that they have some predetermined modulus of resiliency, similar to the specific materials identified above, which allows them to be folded but remain resilient. If the materials are to be creased to define fold lines as discussed above in connection with fiberglass material, it is important that the material retain the modulus of resiliency after having been creased, which, of course, is true with fiberglass or carbon fiber materials." and "As mentioned, numerous materials might have applicability in the present invention, but in the preferred mode, the connector sheet and the dividers are made of the same material, which is a fiberglass mat made by Johns-Manville Corporation and the mat may be one designated No. 5802 or one designated No. 5803 by Johns-Manville." The 5802 is a 120 g/m.sup.2 mat

The 5802 is a 120 g/m.sup.2 mat composed of 10% PET/65% 16-micron glass/25% MF. The 5803 is a 100 g/m mat composed of 12% PET/68% 16-micron glass/20% MF. MF is an abbreviation for melamine formaldehyde resin, which exhibits the characteristics of a thermoset resin. PET is an abbreviation for a polyethylene terephthalate. Dividers made from either of the 5802 or 5803 material have the ability to expand with little or no addition of heat after having been creased and folded as described previously and after having been fully compressed. A more complete description of the Johns-Manville products and related products can be found in U.S. Pat. Nos. 5,840,413, 5,942,288, and 5,972,434, which are herein incorporated by reference. "The ceiling tile of U.S. Published Patent Application No. 20020020142 is a commercial product as shown by Exhibit 1 enclosed.

Claims 51-64, 71-84, 91-94 and 99 stand rejected under 35 USC 112, second paragraph, as being indefinite because of the term "comprising a blend of fibers suitable for use ----- as described in U.S. Patent Application No. 20020020142 filed April 23, 2001.", the Examiner stating that claims may not incorporate, or incorporate by reference, another publication. Claim 51 has been amended to remove the term objected to and therefore claims 51- 64 and 71-81 should no longer be subject to this rejection.

As to claims 82-84, 91-94 and 99, this rejection is traversed. Applicants believe that this term does not make the claims indefinite, but on the contrary make the claims more definite. This term merely defines additional characteristics inherent in the claimed fibrous nonwoven mats by describing a specific component in specific compressible ceiling tile that the claimed fibrous nonwoven mats are capable of fulfilling. Since the published patent application is a permanent document that describes a new type of ceiling tile and its components, all of which are pertinent to the claimed invention, see the last full paragraph on page 1 and the last part of the paragraph beginning on the bottom of page 3 of the specification. Other references are incorporated into claims frequently, such as when a certain standard, a certain test method or a certain type of test is referred to simply as an ASTM, ASM, etc. number is included in a claim and such does not make the claim indefinite, but instead makes the claim more definite. The Examiner provides no basis for urging that the objected to term is indefinite. Of course, if the reference does not adequately describe, or describe with sufficient specificity what it is used to describe, than it may be indefinite. Here, the reference is not used to describe an intended use of the claimed fibrous nonwoven mats, but instead is used to describe characteristics inherent

characteristics inherent in the claimed fibrous nonwoven mats that further define flex and recovery properties after scoring and folding. Even though this is described explicitly in the Summary of the Invention, the Examiner has not been reading this into the above term that has been in the claims for quite some time. The Examiner even seems to refuse to give the specific terms in the claims proper weight as evidenced by the statement "For purposes of examination the aforementioned claim limitation has been interpreted as an intended use limitation that does not contribute to the structure, chemistry of the claimed article." The structure and chemistry required to provide these characteristics are in the claims as are the critical properties of the fibrous nonwoven mats. Tests adequate to predict suitability for a fibrous nonwoven mat to perform well in a specific product or application, or product or application specifications, are not always available, or sufficiently complete, so one runs those tests that seem most likely, but finally has to actually test the mats in the product or application to actually determine their level of performance. Thus, the product itself, and how it performs, becomes the test, and that is what is further defined by the objected to term.

For these reasons applicants believe that the claims are definite and meet the requirements of 35 USC 112, second paragraph, and respectfully request the Examiner to withdraw this rejection and to allow all of the claims.

Claims 51-64, 71-84, 91-94 and 99 stand rejected under 35 USC 103 as being unpatentable over Jaffee in view of Arkens and as further evidenced by Chenoweth. The Examiner stated that it would have been obvious, in the sense of 35 USC 103, to have replaced the binder used by Jaffee with the binder taught by Arkens et al because both references involve fibrous mats and for the motivation of achieving a heat resistant mat without formaldehyde. This rejection is traversed for the following reasons:

- 1) The claimed invention is fibrous nonwoven mats containing a combination of materials having particular characteristics formed into a fibrous nonwoven mats that have a combination of characteristics and properties that make the mats perform in a superior manner as collapsible webs in a compressible ceiling tile as described in the specification and above. None of the references cited teach or reasonably suggest such a combination of materials, or that when in a nonwoven fibrous mat form would possess the characteristics or properties most suitable for that type of application, the problem solved by the claimed invention.

2) Jaffee deals with a very different problem, how to make a fibrous mat that would perform better as a facer on gypsum wall board than the prior art mats described in his Examples 1 and 2, particularly having improved flexibility, see col. 2, line 6. Jaffee teaches a mat that does perform better than the prior art mats because of having more flexibility, lower stiffness (90 degree bend stiffness) because of having a thermoplastic cross linkable vinyl chloride acrylate copolymer binder, see col. 1, line 62 through col. 2, line 37 and Example 4. Mats of this type could be thermoformed, i.e. heated to a plastic state and then formed (hot pressed) into a desired shape, such as pleats, that would be locked in that shape when the thermoplastic binder cooled and hardened. The binder could also contain up to 10 wt. percent of a stearylated melamine to increase strength and water repellancy, see col. 6, lines 58-60. Since none of the mats of Jaffee's invention contained any formaldehyde, there would have been no motivation for the skilled artisan to have looked to Arkens et al for improving Jaffee's mats and furthermore there is nothing in the teachings of Arken et al that suggests that their binder would be superior than the binder taught by Jaffee in mats for gypsum wall board facers. Arkens et al teach binders for mats subjected to hot asphalt at 150-250 deg. C. while the mat is in tension in roofing manufacturing applications, whereas the mats of Jaffee are not taught for such applications or conditions. Note that Arkens et al teaches heat resistance which is the ability of the mat to withstand tension at elevated temperatures, such as being impregnated or coated with hot asphalt while the mat is in tension, and also teaches away from a stiff mat, see col. 1, lines 35-50.

Further, as explained in reason #9 below, the most reasonable place to look for teachings to solve the problem solved by the claimed invention would be in the publications for compressible ceiling tile and in any patents covering the mats previously used for the collapsible dividers in those compressible ceiling tiles. When one does that, as explained in reason #9 below, and further pointed out in the Jaffee Declaration filed earlier, one of ordinary skill in the art is not directed to the mats claimed here.

3) A previously filed Rule 1.132 Declaration by one of the joint inventors, Alan Jaffee, an expert in nonwoven mat technology, has stated in paragraph No. 4 (a) that, even with his training and experience, it took him more than 100 different trials and more than 54 days to find a combination of materials and mat characteristics to find a mat and a suitable range of mat parameters that performed successfully as a collapsible web divider in the ceiling tile described

divider in the ceiling tile described in the published patent application cited just above. These facts are strong evidence that establish a prima facie case of non-obviousness, i.e. that the claimed mats would not have been "obvious to one of ordinary skill in the art at the time the invention was made". What evidence has the Examiner presented that proves otherwise?

- 4) The teachings of Jaffee clearly lead one away from the claimed invention because Jaffee teaches that prior art mats were too stiff, see col. 5, lines 64-67, i.e. a mat having a lower stiffness number, see the Table and lines 46-47, all of which are lower stiffness numbers than the claimed mats. Jaffee leads the skilled artisan towards a more flexible mat and away from the claimed invention. Certainly, nothing in Jaffee, or in Arkens et al, teach that a fibrous nonwoven mat for use as a collapsible web in a compressible ceiling tile of the type described above should have a Taber stiffness of the magnitude of the claimed mats. Note that although Arkens et al teach many applications for their mats at col. 8, lines 61-67, use as a facer mat for gypsum wall board or for use in compressible ceiling tile are not taught or reasonably suggested. Further, Arkens et al do not disclose the stiffness properties of their mats nor do they reasonably suggest that their mats have the stiffness properties that would be suitable for compressible ceiling tile.
- 4) The Jaffee reference also lead the skilled artisan to mats having a basis wt. in the range of about 1.8 to about 2.2 lbs/100 sq. ft. and points towards about 2.1 lbs/100 sq. ft., see col. 2, lines 30-33. This teaching also leads the skilled artisan away from the claimed invention. The Examiner seems to urge that 2.2 lbs./100 sq. ft. is close to 2.3 lbs./100 sq. ft. and therefore Increasing the basis weight of the mats above that taught by Jaffee would be obvious in the sense of 35 USC 103, but in doing so the Examiner apparently overlooks the teachings in Jaffee that actually teach away from increasing the basis weight of his mats. The mats of the claimed invention have a basis weight in the range of about of about 2.3 to about 2.6 lbs/100 sq. ft., and the mats of claims 82 and 84 have basis weights significantly higher than 2.3 lbs/100 sq. ft. Basis weight of mat of same or similar composition affects mat thickness and stiffness with higher basis weights producing greater thickness and higher stiffness. Since Jaffee teaches greater flexibility is desirable, less stiffness, is desired, Therefore, Jaffee clearly teaches away from the basis weights of the claimed mats.

5) Further, nothing in Jaffee or Arkens et al teach the desirability of a nonwoven mat having a Taber stiffness of at least 50 and a mat thickness in the range of about 38 to about 48 mils. Jaffee discloses the thickness of the prior art mats in Examples 1 and 2 to be 36 mils and 31 mils respectively, but does not disclose the thickness of the mats of his invention, but the thickness is likely no higher due to the desire for high flexibility and the lower stiffness, 33, than the prior art mats, 37 and 45.

6) The Examiner urges that it is reasonable to assume that the Taber stiffness of the claimed mats, at least 50, and the ability to pass the National Fire Protection Association's (NFPA) Method #701 Flammability Test would be inherent in the Jaffee mats. Jaffee's testimony in his Second Rule 1.132 Declaration proves otherwise, and also proof is present in the Jaffee patent that the Jaffee mats have a lower Taber stiffness than the claimed mats, see the Table in the Jaffee patent. Arkens et al is not concerned with mat stiffness and neither mentions stiffness or provides any stiffness data, but there is no reasonable basis for assuming that the stiffness of the mats taught by Arkens et al have a stiffness of at least 50 gram centimeters, particularly because the only basis weight disclosed or reasonably taught is only 1.75 lbs/100 sq. ft. and the mat contains only a binder and 1.25 inch long (or 0.75 inch long – Ex. 18), 16 micron diameter, E glass fibers, see Example 3, col. 10, line 4. Further, Arkens et al do not state or reasonably suggest that their mats pass the National Fire Protection Association's (NFPA) Method #701 Flammability Test, or that they are even flame resistant. Arkens et al were concerned that the mats had good heat resistance, i.e. would hold together and have sufficient tensile strength when impregnated with hot asphalt at 150-250 degrees C. This is not hot enough to burn. Arkens et al were not concerned with flame resistance because filled with asphalt, a very flammable material, the mats would not have good flame resistance.

7) There are dozens of binders known for bonding glass and polymer fibers together to form nonwoven mats, but nothing to suggest to one of ordinary skill that the binder of the Arkens et al type would produce the properties critical to performing well in the collapsible dividers in the compressible ceiling tile described above, thus no reasonable expectation of success. Aside from there being no motivation for the skilled artisan to modify the inventive mats of Jaffee with the teachings of Arkens et al for the reasons described above, there is no indication in these references that doing so would produce the mats having the particular combination of characteristics and properties that produce the excellent flex and recovery properties after

excellent flex and recovery properties after having been scored and folded that makes these mats perform in a superior manner as dividers in the compressible ceiling tiles. Nothing in either Jaffee or Arkens et al suggest this result or these properties. Nothing cited by the Examiner suggests such mats as claimed or mats having the combination of properties claimed, so there would have been no motivation to modify the mats of Jaffee, particularly since modification would also involve risk and wasted money and time in view of the unpredictability of how a completely different type of binder, basis weight, thickness, composition of fiber blend, etc. would affect the properties of the mats. The Jaffee Invention, the Arkens et al inventions and this invention are chemical and materials science type inventions and the effects of fiber sizes, fiber types, ratios of different fibers, mat thicknesses, basis weights and amount and type of binder are unpredictable, and especially so when changing two or more of these variables at the same time, which the Examiner is urging would have been obvious to do. As the acts of an expert in this art, Jaffee, evidences in his Rule 1.132 Declaration filed earlier, because of such unpredictability, he tried more than 100 of such combinations over a period of more than 54 days before finding suitable combinations and properties for making the claimed mats. This is extremely strong evidence that the invention, nonwoven mats not requiring the costly glass microfibers previously required in one or more mats found suitable for the compressible ceiling tile, was not obvious to one of ordinary skill. Further evidence that Jaffee is an expert in the nonwoven mat art is the fact that he is an inventor or co-inventor of ten US patents as evidenced by Exhibit 2, also filed earlier.

- 8) The Examiner states that "absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to comprising." This appears to contrary to the long since established practice of interpreting the scope of the term "consisting essentially of". Unlike the case of PPG, applicants have very clearly set out the novel characteristics of the nonwoven mats of the invention in the claims and above. Therefore, the term "consisting essentially of" in the claims defining the type of binder used was inserted to avoid an assertion that the claimed mat did not contain the polyvinyl alcohol binder present in the Geel mats. The term "consisting essentially of" is entitled to the meaning that has traditionally been given to this term by the USPTO and the courts.
- 9) Failing to give weight to properties recited in article claims is reversible error, particularly when evidence to the contrary has been presented. It is improper to ignore property limitations in

property limitations in the claims when the composition of the item having the properties is different than reasonably taught by the reference and especially when the applicant is claiming the properties are critical to a particular different application and/or are unexpected. It is also improper to merely presume that all mats falling within very broad ranges of components, different components at that, have properties that are neither remotely suggested by the reference or any reference cited or are the same as claimed. The presumptions, to be correct, must be reasonable and must be reasonably supported by evidence. Only when the compositions are exactly the same, or so nearly the same, would one of ordinary skill be able to reasonably assume that the properties are the same, or very nearly the same. The Examiner has not shown this or even that most all of the structural and chemical properties of the nonwoven mats claimed, nor is there any evidence to support the allegation that any mat in the ranges taught by Jaffee or Arkens et al will inherently have the properties of the claimed mats. This argument applies to the flex properties following scoring and folding, the flammability test results, the Tabor Stiffness properties and the ratio of wet tensile to dry tensile strengths. The Examiner urges that it is the burden of applicants to prove otherwise, but such is impossible because the Examiner has not set out specifically what part(s) of the Jaffee teachings the Examiner believes was obvious to modify and by specifically what part(s) of Arkens et als' teachings to arrive at specifically what fiber blend composition, mat composition, fiber type and properties, mat basis weight, and mat thickness that the Examiner believes was obvious. Without such information it is impossible to determine the properties of an elusive or phantom mat and unreasonable to require the applicants do so.

Applicants have provided evidence in the two Jaffee Declarations, paragraph #4 d (i, ii, iii), that the properties of the claimed mats, such as Taber Stiffness, was not inherent in prior art mats, and the Examiner has not provided any evidence to support the allegation of inherency, see *In re Dembiczak*, 175 F. 3d 994, 50 USPQ 2d 1614 (Fed. Circuit 1999), for principle that the Examiner must have actual evidence from the prior art to support alleged suggestions to modify references, and *In re Soni*, 34 USPQ 2d 1634. (Fed. Circuit, 1995), *In re Jones*, 21 USPQ2d 1941 (Fed. Circuit, 1992) and *In re Gordon*, 221 USPQ 1127, 1783, for the principles that a showing of substantially improved results for the invention, and statements that the results were unexpected should suffice to establish unexpected results absent evidence to the contrary and that there must be a suggestion in the references of the desirability of combining the teachings of the references. Also see 182 USPQ 291, (CCPA, 1974) for principle that a prior art teaching

of a broad range does not make obvious a narrower range if the narrow range produces much better results or properties than taught by the reference for the broad range. Once the applicants have provided evidence showing that the inherency alleged by the Examiner is wrong, the burden then shifts to the Examiner to show that inherency does in fact exist.

10) Additionally, the application that the mats of the invention were designed for are for ceiling tiles of the type disclosed in US. Pat. App. No. 2002020142 as pointed out in the specification. In that patent application, the mats that were said to perform as the dividers, i.e. the mats that have to be scored and folded and then have the properties that will cause the ceiling tile to spring back into the proper thickness after having been compressed for storing and shipping and storing awaiting use, were mats disclosed in three patents owned by the assignee of the present invention, particularly US 5,840,413 and 5,942,288. The mats taught in those patents contained expensive glass microfibers, i.e. having diameters below 5 microns, and bound with a melamine formaldehyde binder. Glass microfibers cost at least double per pound compared to the 13 – 17.5 micron fibers used in the claimed mats. The mats of the present invention do not require the presence of fine glass fibers to meet the requirements for the dividers in the ceiling tile and that is a further unexpected result of the combinations claimed. The Examiner urges that since the claimed invention are mats and not ceiling tiles, that the properties required in the mats to be used in the ceiling tiles is irrelevant. The present claims now clearly state that the claimed mats are useful as the scored and folded vertical webs spanning between an exposed mat and a backer mat in a compressible ceiling tile (some claims specifically describing as disclosed in published U. S. Patent Application No. 20020020142 filed April 23, 2001), including the ability to, after being scored, folded, and compressed, to spring back to the original shape and orientation and thus have the characteristics required for that application, something that none of Jaffee, Arkens et al or Chenoweth disclose or reasonably suggest to one of ordinary skill in the art. Applicants have shown how difficult it was to invent mats having the properties necessary for this new type of ceiling tile and those properties were not known in prior art mats. This new type of ceiling tile could not be as cost competitive and be as commercially desirable until the mats of the claimed invention were invented. Applicants have presented evidence to support the importance of these mat properties and the Examiner has provided no evidentiary basis for urging that these properties are inherent in the mats of Jaffee. The claimed mats advance the art of nonwoven mats in an unobvious way and as such meet the requirements of

requirements of 35 USC 103. The Examiner seems to be ignoring this evidence of non-obviousness and if so, is improper.

11) Chenoweth is apparently relied on for teaching a range of polymer fibers in combination with rotary spun, not chopped fibers, glass fibers. Chenoweth teaches compressible blankets, col. 2, lines 45-50 and col. 3, lines 61-64, of finer glass fibers (3-10 microns in diameter) and completely different types of products that the presently claimed mats, see the Jaffee Declaration, paragraph #4d (i –iii). Chenoweth also teaches away from the claimed mats, teaching that an optimum proportion of glass fibers is 62 percent and an optimum proportion of polymer fibers is 21 percent and the optimum percent of binder is 16.5 percent. Also, the type of glass fibers taught are completely different types of fibers as described above, have fiber diameters much lower than the mats of the claimed invention, and that have various indeterminate lengths of less than 1/2 inch to approx. 3 inches. The chopped fibers in applicants' claimed mats have a narrow length distribution because of having been chopped in definite lengths from strands containing hundreds or thousands of continuous fibers whereas the rotary spun fibers of Chenoweth were shredded, see col. 3, line 68. The polymer fibers of Chenoweth also have lengths and deniers broader in range than the fibers of the claimed Invention, see col. 4, lines 12-25. Chenoweth cannot reasonably suggest the compositions of the current claims, because he is dealing with different types of fibers and different types of products aimed at different applications, automotive hood liners and similar products, see col. 5, lines 25-32. By looking at any automobile hood liner one can readily see that the products are completely different than the claimed mats and the mat of Exhibit 1. Chenoweth does not teach or reasonably suggest that his product would be suitable for use in a ceiling tile of the type described earlier, nor would one skilled in the art so conclude.

The Examiner urges that applicants' ranges for the concentration of polyester fibers are broad and encompass typical values found in the prior art as evidenced by Chenoweth. With due respect, this allegation is wrong! The claimed mat contains about 8-12 wt. percent (8-16 wt. percent in claim 91) of man-made polymer fibers and this range is not broad. Chenoweth urges in Table 1 that a range of 30-50 wt. percent of synthetic fibers are functional, that a range of 10-30 wt. percent are preferred, and that 21 wt. percent is optimal, and this is in combination, not with 13-17.5 micron fibers about 0.7 to about 1.1 inch long like in the claimed mats, but instead with rotary spun glass fibers having diameters of 3-10 microns (col. 2, lines 21-22) and lengths

fibers having diameters of 3-10 microns (col. 2, lines 21-22) and lengths of less than 1/2 inch to approx. 3 inches (col. 3, lines 67-68. Finally, just any combination of glass fibers and polymer fibers bonded with any type of binder will produce the properties and characteristics necessary to perform well in the scored and folded webs of the ceiling tile described above, as confirmed by the Jaffee Declaration, i.e. Jaffee would not have tried more than 100 combinations before discovering the present invention.

12) Finally, because of the many differences in the mat constructions, suggested applications and properties of the mats or blankets taught by Jaffee, Arkens et al and Chenoweth from the claimed invention, and the reasons given above regarding the lack of motivation for each difference, the present rejection seems to be a improper hindsight reconstruction using applicants' own disclosure as a template to assemble irrelevant and/or unrelated pieces of prior art to try to establish a case for obviousness, see American Medical Systems, Inc. v Medical Engineering Corp., 26 USPQ 2d, 1081, 1091, (District Court of E.D. Wisconsin, 1992) for the principal that one may not use the applicants' disclosure as a "road map" for finding and combining prior art using only hindsight after having the benefit of applicants disclosure. Several discrepancies or deficiencies in the prior art teachings relative, such as the obviously lower stiffness and higher flexibility of the mats of Jaffee, the different suggested applications, the teaching away by preferred or optimal combinations taught in Jaffee and Arkens et al and the difference in the glass fibers taught by Chenoweth and Arkens et al are evidence that the present rejections are improper hindsight rejections.

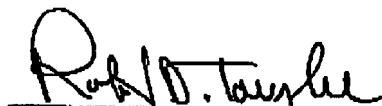
For the above reasons applicant believes that the present claims are patentable under 35 USC 103 and respectfully requests the Examiner to withdraw this rejection and to allow all of the claims.

Claims 51-64, 71-84, 91-94 and 99 were provisionally rejected under the non-statutory double patenting doctrine because of the claims in pending patent application Serial No. 10/717,802 in view of Jaffee. The Examiner states that the claims of the copending application fail to include polymer fibers in the nonwoven mat, but that because of the teachings of Jaffee it would have been obvious to have included polymer fibers in the invention of the other pending application. This rejection is respectfully traversed.

First, because the Jaffee Declaration shows that mats without the polymer fibers will not meet the requirements of the folding mats in the ceiling tile in Pub. App. 20020020142 and therefore are not merely an obvious modification – unexpected results flow from the claimed additions of polymer fibers and these results are not reasonably taught or suggested by Jaffee or Chenoweth, or by applicants' copending application. Second, the mats in the patent application Serial No. 10/717,802 will not meet the requirements for the vertical, folding panels, dividers, in the ceiling tile of Pub. App. 20020020142, but instead are for the exposed or backer facing mat joined to the vertical, folding panels. Finally, the present claims cannot prevent the practice of the invention in Serial No. 10/717,802 - that invention does not require the use of polymer fibers in the mat as the present claims do require. Also, for the same reasons given above, it would not have been obvious to one of ordinary skill in the art to have modified the invention in 10/717,802 in such a way as to arrive at the present invention. The mats of 10/717,802 were designed for the facing and backer mats of the type of ceiling tile disclosed in Pub. App. 20020020142 and do not have the properties after scoring and folding necessary for the divider mat that the mats of the present invention satisfy. The facing and backer mats or connector sheets are not scored and folded, nor are they folded in compression for packaging and therefore do not have the property of springing back. For these reasons the Examiner is respectfully requested to withdraw this rejection and to allow all of the claims.

Applicants believe that the claims are now in condition for allowance, but if the Examiner believes one or more issues still exist, to expedite disposal of this application the Examiner is respectfully invited to call Applicants' attorney at the number listed below to discuss the issue or issues and a way of removing.

Respectfully submitted,



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